

Approved For Release 2002/01/02 : CIA-RDP76M00527R000700140087-4

18 June 1974



To: GLC  
LLM

Latest OMB draft on their version of  
H. R. 12206, which amends the Freedom  
of Information Act to allow individuals  
access to government records which are  
maintained concerning them.

Per our request. OMB has given us  
a total exemption (see page 6, section (c)(2)).

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OFFICE OF MANAGEMENT AND BUDGET

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 (CIA)	<input type="checkbox"/> Take necessary action <input type="checkbox"/> Approval or signature <input type="checkbox"/> Comment <input type="checkbox"/> Prepare reply <input type="checkbox"/> Discuss with me <input type="checkbox"/> For your information <input type="checkbox"/> See remarks below
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FROM Walter W. Haase DATE 6/12/74

REMARKS

Attached for your information is a copy of the latest version of the privacy bill.

We have gone through a large number of iterations to accommodate as many agency views as possible. We will be polishing this language within the next few days and submitting it for final policy level review prior to releasing it.

Please call us (395-4745 or 4814) within the next few days if you have any further comments or suggestions.

I hope the revised draft relieves the concerns you previously expressed to Frank Reeder

June 11, 1974

A BILL

To amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by government agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  
That (a) title 5, United States Code, is amended by adding at the end of section 552 thereof the following new section:

"552a Records about individuals.

"(a) For the purpose of this section--

"(1) 'Record' means a collection or grouping of data preserved for future reference or use;

"(2) 'System of records' means an organized collection or grouping of records whether or not stored in computer-accessible form; and

"(3) 'Statistical reporting or research records' means a system of records assembled or maintained for analytic purposes that do entail use of any record pertaining to an individual or information contained therein, in making any determination about that individual except as provided in chapter 8 of title 13.

"(b) Each agency that maintains a system of records pertaining to identifiable individuals which are indexed, or from which information can be retrieved, by the name of the individual or by some identifying number or symbol assigned to each individual, shall with respect to such systems of records--

"(1) publish, at least annually in the Federal Register, a notice or notices of the existence and character of all such systems of records. The notices shall include but need not be limited to:

"(A) the name of the system;

"(B) the nature and purposes of the system;

"(C) the categories and approximate number of individuals on whom records are maintained;

"(D) the categories of information maintained;

"(E) the policies and practices of the agency regarding storage, retention, and disposal of the records;

"(F) a description of the purposes for which all or any part of the information contained in the records is used or is intended to be used or disclosed including the categories of users for each purpose;

"(G) the title and address of the officer responsible for the system; and

"(H) the procedures whereby an individual can be informed if the system contains a record pertaining to him, gain access to such record, and contest its content; and otherwise to implement the provisions of this section;

"(2) maintain procedures whereby an individual from whom information about himself is being requested is apprised of the purposes for which that information will be used or disclosed and the effects for him, if any, of not providing all or any of the requested information;

"(3) refrain from disclosing any such records, or information contained therein, to a person not employed by the agency or to another agency, except--

"(A) pursuant to a request by or with the consent of the individual to whom the information in the record pertains, or

"(B) for a use that is expressly required by law, or

"(C) for a use that is clearly within the stated purposes of the system as described in a notice pursuant to paragraph (1) of this subsection published at least ninety days prior to such use, or

"(D) upon good cause for the disclosure and when not otherwise prohibited by law, with notification of the individual to whom the record pertains at his last known address prior to such disclosure, or

"(E) to another agency for a law enforcement purpose authorized by law, provided that the head of such other agency, or his designee, shall have made a written request specifying the particular information desired and the law enforcement purpose for which the information is sought; or

"(F) where the agency determines that the recipient has provided adequate assurance that the record, or information contained therein, will be used only as

part of statistical reporting or research records;

"(4) maintain an accurate record of the date, nature, and purpose of each disclosure of information which is contained in any such record made to any person outside the agency or to another agency including the name and address of the person or agency to whom disclosure was made, and retain such record for a minimum of one year after such disclosure, except that no such record need be made of any disclosure of information from records which by law or regulation are open to public inspection or copying;

"(5) establish and maintain procedures to ensure that there will be no disclosure of a record, or information contained therein, within the agency other than to individuals who have a need to know in the performance of their duties for the agency, except in the case of records which by law or regulation are open to public inspection;

"(6) maintain information in any record with such accuracy, completeness, timeliness, and pertinence as is necessary to permit accurate and fair determinations relating to the individual to whom the record pertains which may be made by the agency on the basis of the information;

"(7) permit an individual to inspect the information in any record pertaining to him and to have a copy made of all or any portion thereof;

"(8) permit an individual to request amendment of a record pertaining to him by making any correction, deletion, or addition of information which the individual believes is necessary to bring the record into conformity with paragraph (6) of this subsection;

"(9) inform the individual when it has determined not to amend a record in accordance with his request, the reason therefor, and the procedures established by the agency for the individual to appeal that determination;

"(10) permit an individual who disagrees with the agency's determination on his requested amendment to request further review and file a statement setting forth the nature of any disputes under the agency appeal procedure;

"(11) in any subsequent disclosure containing information that is disputed by the individual, clearly note that it is disputed and provide copies of the statement to persons to whom the disputed information has been disclosed upon their request;

"(12) inform any person or other agency about any significant correction or deletion made by the agency of any information that has been disclosed to such person or agency within one year preceding the making of such correction or deletion.

"(c) The provisions of the bill shall not apply to any system of records---

"(1) maintained by an executive agency to the extent that the head of that agency determines that the disclosure of the existence of the system of records would seriously damage national defense or foreign policy; or

"(2) maintained by the Central Intelligence Agency.

"(d) The head of an executive agency or his designee may publish rules exempting systems of records or information contained therein from all or part of the provisions of subsection (b) (1) (H) and (b) (2) through (12) of this section--

"(1) to the extent that he determines that the release of the information would seriously damage national defense or foreign policy; or

"(2) that are maintained in connection with providing protective services to the President and other individuals; or

"(3) that consist of investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency; or

"(4) that are investigatory files compiled or used for the purpose of determining initial or continuing eligibility or qualification for Federal employment, military service, Federal contracts, or access to classified information; or

"(5) that are authorized by law to be maintained, and used only as statistical reporting or research records.

"(e) Each agency shall adopt rules in accordance with section 553 of this title to implement the provisions of this

section. Such rules shall define reasonable times, places and requirements for individual identification for making records available to the individual to whom they pertain; procedures for reviewing and making determinations on requests for amendment of records; and other procedures whereby individuals may exercise their rights established by this section. Such rules may establish fees to be charged to individuals for furnishing copies of records, or portions thereof, which shall in no event be greater than the cost to the agency of making such copies. Such rules may also establish special procedures for the disclosure to an individual of medical information pertaining to him in cases where the agency determines that such disclosure might be injurious to him.

"(f) (1) Records pertaining to identifiable individuals transferred to the General Services Administration for storage subsequent to the enactment of this section shall, for the purposes thereof, be considered to be maintained by the agency which transferred the records and shall be subject to the provisions of this section. The General Services Administration shall not disclose such records, or any information therein, except to the agency which maintains the records or pursuant to rules established by that agency.

(2) Records pertaining to identifiable individuals transferred to the General Services Administration for storage prior to enactment of this section shall not be subject to the provisions of this section unless requests are received

for release or disclosure of the records or information contained therein. At that time, the records shall be subject to the provisions of this section, as if they were active agency records at the time of the request for disclosure except that this provision shall not apply to records transferred to the General Services Administration more than 100 years prior to enactment of this section.

"(g) The President shall report to Congress before June 30th of each year on an agency-by agency basis the nature of each system of records and the number of records therein which were exempted from the application of this section pursuant to the provisions of subsections (c) or (d) during the immediately preceding calendar year.

"(h) Any person who knowingly and willfully violates the provisions of subsection (b) of this section or permits such a violation, shall upon conviction be subject to a fine of not more than \$1,000. (Being revised to limit sanctions to unlawful disclosures only.)

"(i) Nothing in this section shall be construed to require transfer or similar distribution of any information prohibited or otherwise restricted by other statutes." (Further research is being conducted to determine whether the provisions of this section could require the release of information which is prohibited by other statutes.)

(b) The table of sections of Chapter 5 of title 5 United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552 Public information; agency rules; opinions, order, records,  
and proceedings."

SEC. 2. The amendments made by the Act shall become  
effective on the one hundred eightieth day following the date  
of enactment of this Act.